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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/917,433	07/27/2001	Laurence Lee	P430.12-0002	2032

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EXAMINER
TSOY, ELENA

ART UNIT	PAPER NUMBER
1762	10

DATE MAILED: 12/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/917,433	Applicant(s) LEE ET AL.
	Examiner Elena Tsoy	Art Unit 1762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 November 2002* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-19 and 26-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-18 and 26-30* is/are rejected.

7)☒ Claim(s) *19* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other:

Response

1. Response filed on November 18, 2002 has been noted. Claims 13-19, 26-30 are pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. **Claims 13-16, 18, 26-30** stand rejected under 35 U.S.C. 103(a) as being unpatentable over Glatt et al (US 4,858,552) in view of Reynolds (US 3,354,863) and further in view of Luy et al (US 5,631,102) for the reasons of record as set forth in the Office Action mailed on June 16, 2002 (Paper No. 8).

4. **Claim 17** stands rejected under 35 U.S.C. 103(a) as being unpatentable over Glatt et al (US 4,858,552) in view of Reynolds (US 3,354,863), further in view of Luy et al (US 5,631,102) and further in view of Biehl et al (US 4,217,851) for the reasons of record as set forth in the Office Action mailed on June 16, 2002 (Paper No. 8).

Allowable Subject Matter

5. **Claim 19** stands objected to for the reasons of record as set forth in the Office Action mailed on June 16, 2002 (Paper No. 8).

Response to Arguments

6. Applicants' arguments filed November 18, 2002 have been fully considered but they are not persuasive.

(A) Applicants argue that positioning a spray nozzle of Glatt et al above screen would not have been obvious in view of Reynolds.

The Examiner respectfully disagrees with this argument. Reynolds teaches that a process with a spray nozzle positioned *above* a grid 14 (See Fig. 1) produces about 62 wt % plus 8 mesh size and about 37 wt % plus 4 mesh size and (See column 4, lines 54-62), whereas a process with a spray nozzle positioned *flush* with the grid 14 (See column 5, lines 24-33) produces about 27 wt % plus 8 mesh size and about 33 wt % plus 12 mesh size (See column 5, lines 55-59). In other words, size distribution of coated particles depend position of the spray nozzle all other things being equal.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have positioned a spray nozzle in a process of Glatt et al above a perforated base with the expectation of producing coated particles of bigger size depending on intended use of a final product since Reynolds teaches that a process with a spray nozzle positioned *above* a grid produces coated particles of larger size than a process with a spray nozzle positioned *flush* with the grid all other things being equal.

(B) Applicants disagrees with the Examiner' statement that it would have been obvious to one of ordinary skill to modify Glatt et al and Reynolds using teaching of Luy et al so that liquid line is heated.

The Examiner respectfully disagrees with this argument. Glatt et al teach that the spraying means 6 can be **heated** to *prevent* the spray media from *solidifying* (See Figs. 1, 2; column 6, lines 33-35). Luy et al teach that a liquid line can be **heated** (See column 11, lines 28-29) *obviously* to prevent the spray media from solidifying.

In other words, heating a liquid line of Luy et al and heating spraying means are known equivalent techniques for preventing the spray media from solidifying.

It is held that the substitution of one known equivalent technique for another may be obvious even if the prior art does not expressly suggest the substitution. Ex parte Novak 16 USPQ 2d 2041 (BPAI 1989); In re Mostovych 144 USPQ 38 (CCPA 1964); In re Leshin 125 USPQ 416 (CCPA 1960); Graver Tank & Manufacturing Co. v. Linde Air Products Co. 85 USPQ 328 (USSC 1950).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted one known equivalent technique of Glatt et al for another of Luy et al with the expectation of providing the desired prevention of *solidifying* spray media.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elena Tsoy whose telephone number is (703) 605-1171. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive Beck can be reached on (703) 308-2333. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

ET

MICHAEL BARR
PRIMARY EXAMINER

Elena Tsoy
Examiner
Art Unit 1762

December 18, 2002